

AMENDED IN SENATE MAY 6, 2003
AMENDED IN SENATE APRIL 22, 2003

SENATE BILL

No. 139

Introduced by Senators Brulte and Scott

February 6, 2003

An act to amend Section 1255.7 of the Health and Safety Code, and to amend Section 271.5 of the Penal Code, relating to abandoned newborns.

LEGISLATIVE COUNSEL’S DIGEST

SB 139, as amended, Brulte. Abandoned newborns: safe-surrender.

Existing law provides that a parent or other person having lawful custody of a minor child 72 hours old or younger who surrenders physical custody of the child to a designated employee on duty at a hospital emergency room or other location designated by a county board of supervisors by resolution may not be prosecuted for specified crimes related to child abandonment and neglect.

Existing law requires the person designated pursuant to these provisions to take physical custody of the child in accordance with certain requirements if the parent or other person having lawful custody of the child voluntarily surrenders physical custody to that person.

This bill would revise these provisions to eliminate the requirement that the child be surrendered to a designated employee on duty in the emergency room of a hospital or location designated by the board of supervisors. The bill would instead allow the surrender of the child to a safe-surrender site, as defined, at a hospital or location designated for this purpose by a county board of supervisors. The bill would also

provide that certain information pertaining to the individual surrendering the child is confidential and would require safe-surrender sites to post signs, as prescribed by the State Department of Health Services.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1255.7 of the Health and Safety Code
2 is amended to read:

3 1255.7. (a) (1) For purposes of this section, “safe-surrender
4 site” means either of the following:

5 (A) A location designated by the board of supervisors of a
6 county to be responsible for accepting physical custody of a minor
7 child who is 72 hours old or younger from a parent or individual
8 who has lawful custody of the child and who surrenders the child
9 pursuant to Section 271.5 of the Penal Code.

10 (B) A location within a public or private hospital that is
11 designated by that hospital to be responsible for accepting physical
12 custody of a minor child who is 72 hours old or younger from a
13 parent or individual who has lawful custody of the child and who
14 surrenders the child pursuant to Section 271.5 of the Penal Code.

15 (2) For purposes of this section, “personnel” means any person
16 who is an officer or employee of a safe-surrender site or who has
17 staff privileges at the site.

18 (3) A hospital and any safe-surrender site designated by the
19 county board of supervisors shall post a sign that meets
20 requirements established by the State Department of Health
21 Services that notifies the public of the location where a minor child
22 72 hours old or younger may be safely surrendered pursuant to this
23 section.

24 (b) Any personnel on duty at a safe-surrender site shall accept
25 physical custody of a minor child 72 hours old or younger pursuant
26 to this section if a parent or other individual having lawful custody
27 of the child voluntarily surrenders physical custody of the child to
28 personnel who are on duty at the safe-surrender site.
29 Safe-surrender site personnel shall ensure that a qualified person
30 does all of the following:

31 (1) Places a coded, confidential ankle bracelet on the child.

(2) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming the child pursuant to subdivision (f). However, possession of the ankle bracelet identification, in and of itself, does not establish parentage or a right to custody of the child.

(3) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a medical information questionnaire, which may be declined, voluntarily filled out and returned at the time the child is surrendered, or later filled out and mailed in the envelope provided for this purpose. This medical information questionnaire shall not require any identifying information about the child or the parent or individual surrendering the child, other than the identification code provided in the ankle bracelet placed on the child. Every questionnaire provided pursuant to this section shall begin with the following notice in no less than 12-point type:

NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST TREATED WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY FUTURE, YOUR ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE FULLY IS ESSENTIAL. THANK YOU.

(c) Personnel of a safe-surrender site that has physical custody of a minor child pursuant to this section shall ensure that a medical screening examination and any necessary medical care is provided to the minor child. Notwithstanding any other provision of law, the consent of the parent or other relative shall not be required to provide that care to the minor child.

(d) As soon as possible, but in no event later than 48 hours after the physical custody of a child has been accepted pursuant to this section, personnel of the safe-surrender site that has physical custody of the child shall notify child protective services or a county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code, that the safe-surrender site has physical custody of the child pursuant to

1 this section. In addition, any medical information, including, but
2 not limited to, information obtained pursuant to the medical
3 information questionnaire described in paragraph (3) of
4 subdivision (b) that has been received by or is in the possession of
5 the safe-surrender site shall be provided to that child protective
6 services or county agency. *Any personal identifying information*
7 *that pertains to a parent or individual who surrenders a child that*
8 *is obtained pursuant to the medical information questionnaire is*
9 *confidential and shall be exempt from disclosure by the child*
10 *protective services or county agency under the California Public*
11 *Records Act (Chapter 3.5 (commencing with Section 6250) of*
12 *Division 7 of Title 1 of the Government Code).*

13 (e) Child protective services or the county agency providing
14 child welfare services pursuant to Section 16501 of the Welfare
15 and Institutions Code shall assume temporary custody of the child
16 pursuant to Section 300 of the Welfare and Institutions Code
17 immediately on receipt of notice under subdivision (d). Child
18 protective services or the county agency providing child welfare
19 services pursuant to Section 16501 of the Welfare and Institutions
20 Code shall immediately investigate the circumstances of the case
21 and file a petition pursuant to Section 311 of the Welfare and
22 Institutions Code. Child protective services or the county agency
23 providing child welfare services pursuant to Section 16501 of the
24 Welfare and Institutions Code shall immediately notify the State
25 Department of Social Services of each ~~such child~~ *child to whom*
26 *this subdivision applies* upon taking temporary custody of the
27 child pursuant to Section 300 of the Welfare and Institutions Code.
28 As soon as possible, but no later than 24 hours after temporary
29 custody is assumed, child protective services or the county agency
30 providing child welfare services pursuant to Section 16501 of the
31 Welfare and Institutions Code shall report all known identifying
32 information concerning the child, *except personal identifying*
33 *information pertaining to the parent or individual who*
34 *surrendered the child*, to the California Missing Children
35 Clearinghouse and to the National Crime Information Center.

36 (f) If, prior to the filing of a petition under subdivision (e), a
37 parent or individual who has voluntarily surrendered a child
38 pursuant to this section requests that the safe-surrender site that has
39 physical custody of the child pursuant to this section return the
40 child and the safe-surrender site still has custody of the child,

1 personnel of the safe-surrender site shall either return the child to
2 the parent or individual or contact a child protective agency if any
3 personnel at the safe-surrender site knows or reasonably suspects
4 that the child has been the victim of child abuse or neglect. The
5 voluntary surrendering of a child pursuant to this section is not in
6 and of itself a sufficient basis for reporting child abuse or neglect.
7 The terms “child abuse,” “child protective agency,” “mandated
8 reporter,” “neglect,” and “reasonably suspects” shall be given
9 the same meanings as in Article 2.5 (commencing with Section
10 11164) of Part 4 of Title 1 of the Penal Code.

11 (g) Subsequent to the filing of a petition under subdivision (e),
12 if within 14 days of the voluntary surrender described in this
13 section the parent or individual who surrendered custody returns
14 to claim physical custody of the child, the child welfare agency
15 shall verify the identity of the parent or individual, conduct an
16 assessment of his or her circumstances and ability to parent, and
17 request that the juvenile court dismiss the petition for dependency
18 and order the release of the child, if the child welfare agency
19 determines that none of the conditions described in subdivisions
20 (a) to (d), inclusive, of Section 319 of the Welfare and Institutions
21 Code currently exist.

22 (h) No safe-surrender site, or personnel of the safe-surrender
23 site, that accepts custody of a surrendered child pursuant to this
24 section shall be subject to civil, criminal, or administrative liability
25 for accepting the child and caring for the child in the good faith
26 belief that action is required or authorized by this section,
27 including, but not limited to, instances where the child is older than
28 72 hours or the parent or individual surrendering the child did not
29 have lawful physical custody of the child. This subdivision does
30 not confer immunity from liability for personal injury or wrongful
31 death, including, but not limited to, injury resulting from medical
32 malpractice.

33 (i) Any identifying information that pertains to a parent or
34 individual who surrenders a child pursuant to this section, that is
35 obtained as a result of the questionnaire described in paragraph (3)
36 of subdivision (b) or in any other manner, is confidential, *shall be*
37 *exempt from disclosure under the California Public Records Act*
38 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*
39 *Title 1 of the Government Code)*, and shall not be disclosed by any
40 personnel of a safe-surrender site that accepts custody of a child

1 pursuant to this section *except to the child protective services*
2 *agency or county agency providing child welfare services pursuant*
3 *to Section 16501 of the Welfare and Institutions Code pursuant to*
4 *subdivision (d).*

5 (j) This section shall be repealed on January 1, 2006, unless a
6 later enacted statute extends or repeals that date.

7 SEC. 2. Section 271.5 of the Penal Code is amended to read:

8 271.5. (a) No parent or other individual having lawful
9 custody of a minor child 72 hours old or younger may be
10 prosecuted for a violation of Section 270, 270.5, 271, or 271a if he
11 or she voluntarily surrenders physical custody of the child to
12 personnel on duty at a safe-surrender site.

13 (b) For purposes of this section, “safe-surrender site” has the
14 same meaning as defined in paragraph (1) of subdivision (a) of
15 Section 1255.7 of the Health and Safety Code.

16 (c) For purposes of this section, “personnel” has the same
17 meaning as defined in paragraph (2) of subdivision (a) of Section
18 1255.7 of the Health and Safety Code.

19 (d) This section shall be repealed on January 1, 2006, unless a
20 later enacted statute extends or deletes that date.

